



Billing Code: 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2015–N192; FXES11120200000–167–FF02ENEH00]

Notice of Availability: Environmental Assessment and Draft Amended Oil and Gas Industry Conservation Plan for the American Burying Beetle in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of documents; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of an environmental assessment (EA), under the National Environmental Policy Act of 1969, that evaluates the impacts of a draft amendment to the Oil and Gas Industry Conservation Plan (ICP) for incidental take of the federally listed American burying beetle resulting from oil and gas industry activities. The original ICP (2014 ICP) was approved on May 21, 2014. The proposed amendment to the ICP will extend by 3 years the periods for signup, submission of individual project plans (IPPs), project construction, and ICP/permit duration. It also will provide date-certain deadlines, which

will reduce confusion and simplify tracking for both permittees and the Service. In addition, we propose to delete language that limits coverage to projects that are fully contained within the ICP planning area. There is no change to the covered species, total amount of take authorized, or the planning area, which consists of 45 counties in Oklahoma. Individual oil and gas companies would continue to apply for Endangered Species Act permits for incidental take and agree to comply with the terms and conditions of the ICP.

DATES: To ensure consideration, written comments must be received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Any comments we receive after the closing date or not postmarked by the closing date may not be considered in the final decision on this action.

ADDRESSES: *Obtaining Documents:*

- *Internet:* You may obtain copies of the EA and draft amendment to the ICP on the U.S. Fish and Wildlife Service's (Service) web site at www.fws.gov/southwest/es/oklahoma/ABBICP.
- *U.S. Mail:* A limited number of CD-ROM and printed copies of the EA and draft amendment to the ICP are available, by request, from the Field Supervisor, by mail at the Oklahoma Ecological Services Field Office, 9014 E. 21st St., Tulsa, OK 74129; by phone at 918-581-7458; or by fax at 918-581-7467. Please note

that your request is in reference to the draft amended ICP for American burying beetle in Oklahoma.

- *In-Person:* Copies of the EA and draft amended ICP are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
 - U.S. Fish and Wildlife Service, 500 Gold Avenue, S.W., Room 6034, Albuquerque, NM 87102.
 - U.S. Fish and Wildlife Service, 9014 E. 21st St., Tulsa, OK 74129.

Comment submission: You may submit comments by one of the following methods.

- *U.S. Mail:* U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office, 9014 E. 21st St., Tulsa, OK 74129; by phone at 918–581–7458; or by fax at 918–581–7467.
- *Electronically:* fw2_hcp_permits@fws.gov.

FOR FURTHER INFORMATION CONTACT: Jonna Polk, Field Supervisor, by U.S. mail at the U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office, 9014 E. 21st St., Tulsa, OK 74129; or by phone at 918–581–7458.

SUPPLEMENTARY INFORMATION: Under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), this notice advises the public that we, the Service, have gathered the information necessary to determine impacts of the EA and draft amendment to the ICP related to the proposed issuance of incidental take permits

(ITPs) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA), to oil and gas companies (applicants) who agree to the conditions in the draft amended ICP. The ICP is a habitat conservation plan (HCP) that covers take of the American burying beetle (ABB) in Oklahoma that is incidental to covered activities associated with geophysical exploration (seismic), development, extraction, or transport of crude oil, natural gas, and/or other petroleum products, as well as maintenance, operation, repair, and decommissioning of oil and gas pipelines and well field infrastructure, and will include measures necessary to minimize and mitigate impacts to the covered species and its habitat to the maximum extent practicable.

The Service plans to amend the ICP to cover several changes. We plan to (1) extend the timeframe for oil and gas companies (industry) to apply for participation in the ICP; (2) extend the expiration date of the ICP and permits by 3 years; (3) extend the construction period to 3 years after permit issuance and approval of individual project plans (IPP); (4) extend operations and management coverage to the permit expiration date; (5) provide date-certain limits for each period to help industry and the Service simplify record-keeping; and (6) remove requirements that all projects must be completely within the planning area. Removing the restriction will expand the type of activities to include pipelines from other areas. .

Under the proposed amendment there are no proposed changes to the federally listed species. The American burying beetle (ABB) is the only species covered for incidental take in the draft amended ICP, and the total amount of take has not been

increased. There are no changes to the process for applying for an incidental take permit or submission of individual project plans (IPPs), other than the removal of the requirement for the project to be entirely contained within the covered area. There are no changes to the covered area, which consists of the following 45 Oklahoma counties: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Cleveland, Coal, Craig, Creek, Delaware, Garvin, Haskell, Hughes, Johnson, Kay, Latimer, Le Flore, Lincoln, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Rogers, Seminole, Sequoyah, Tulsa, Wagoner, and Washington.

The 2014 ICP allows industry to apply for a permit to participate for the first two years from the date of approval and signature – May 21, 2014. Construction is allowed for the first 2 years, and operations and maintenance for up to an additional 20 years. The estimates of potential impacts from industry activities for the ICP were based on recent history of development at the time of development and industry predictions. However, industry activity and impacts have been less than expected due to reduced petroleum prices and market conditions, and the amount of take issued under the 2014 ICP has been significantly lower than anticipated (32,234 acres allowed, with only 395 acres approved as of January 11, 2016). The 2014 ICP is only open for new applications through May 21, 2016, and incidental take authorized through the ICP is unlikely to approach the 32,234 acres allowed by that date.

The amendment will extend by 3 years the period for ICP signup, submission of IPPs, and construction after IPP approval. All applications under the amended ICP must be received by May 20, 2019, but may be approved after that date. Once approved and permitted, the permit holder must still submit their IPPs for approval by the Oklahoma Ecological Services Office prior to construction under the permit. Under the amended plan, IPPs must be received by May 20, 2022, and all construction related to IPPs must be completed by May 20, 2025. Operation and maintenance activities are authorized until the permit expires on May 20, 2039. Therefore, incidental take issued under this ICP may occur across a maximum of 25 years. All incidental take coverage provided by the amended ICP will end when the ICP and permits expire on May 20, 2039, regardless of when the individual permits or IPP applications were approved. Providing date-certain limits for each period will reduce confusion and simplify tracking for both permittees and the Service.

We also propose to remove all language that limits coverage to projects that are fully contained within the ICP planning area. Projects that extend beyond the planning area can apply for coverage for the portion that is within the planning area. This is with the understanding that the amended ICP will not provide any Endangered Species Act coverage or National Environmental Policy Act analysis for the portions of the projects that are outside the planning area. The change in timelines and allowing coverage for projects that are not fully contained within the ICP planning area are the only revisions to the ICP and EA. There are no changes to the biological opinion (BO).

We have assessed the potential impacts of the amendment to the ICP and reviewed the associated environmental assessment (EA) and BO for industry-related activities within the eastern Oklahoma planning area. Extending the same level of take over additional years is expected to reduce potential impacts to local habitat and ABB populations. Much of the oil and gas related impacts are temporary and can be restored within 2–5 years. Spreading the impacts over up to 11 years would allow temporary soil disturbance initiated in the first few years to be partially or fully restored before impacts from later projects have begun. The ABB is an annual species, and reducing take in any year should allow more adult beetles to survive into the next year. Incidental take authorized through the extension would not be increased, is a very small percentage of the total ABB habitat, and would not change the BO determination that the take would not jeopardize the continued existence of the ABB.

Permittees with existing ICP permits are bound by the terms and conditions of their existing permits. If they want the extended timeframes or reduced restrictions regarding being completely contained within the ICP Planning Area, they must apply for an amendment to their permit.

Background

Potential impacts as a result of the extension are not expected to increase beyond those already identified in the EA. Environmental consequences were reviewed for the ICP extension and potential impacts to the following resources were evaluated: Geology, Soils, Water Resources, Water Quality, Air Quality, Vegetation, Wetlands, General

Wildlife, Threatened and Endangered Species, Land Use, Aesthetics and Noise, Socioeconomics, Environmental Justice, Tribal jurisdiction, and Cultural Resources.

Minor benefits in the areas of Water Resources, Water Quality, Air Quality, Vegetation, Wetlands, General Wildlife, Threatened and Endangered Species, Land Use, Aesthetics, and Noise could occur, because any impacts of oil and gas construction activity would be spread out over up to 11 years. Local impacts of project-related soil disturbance such as removal of vegetation, erosion, and dust may be reduced, and some recovery of natural resources could be expected if spread out over additional years.

The ICP extension is not expected to significantly affect oil and gas activity, but would help support industry activity by streamlining compliance with the ESA, while continuing conservation efforts for the ABB. The 3-year ICP extension is not expected to trigger any new environmental consequences, or any new impacts to local economies or cultural resources. Nor are there any expected changes to direct, indirect, and cumulative effects. The ICP extension would not authorize any additional activities or incidental take. The same types and quantities of activities previously described in the EA are expected to occur with the 3-year extension. Based on the 2014 ICP, construction-related impacts could occur for up to 11 years (5 years from permit issuance, up to 3 additional years for IPP approval, and up to 3 years from IPP approval for construction) instead of for the original 2-year timeframe, and operation and maintenance-related impacts would occur over 25 years instead of the original 22 years.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: February 2, 2016.

Benjamin N. Tuggle

Regional Director, Southwest Region,

Albuquerque, New Mexico.

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